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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/641,142	08/15/2003	Steven Shraga	P23568	8544
7055	7590	07/05/2005		
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			EXAMINER THALER, MICHAEL H	
			ART UNIT 3731	PAPER NUMBER
DATE MAILED: 07/05/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/641,142	Applicant(s) SHRAGA, STEVEN	
	Examiner Michael Thaler	Art Unit 3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 April 2005.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/15/03, 4/7/05</u> . | 6) <input type="checkbox"/> Other: _____  |

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The restriction requirement is considered to be moot since all claims read on the elected species of figures 36-40.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 4 is indefinite since it is unclear what is meant by the surface that engages the rear end of the holding member. Back cap 412 does not appear to be coupled to any such surface. In claim 5, it is unclear what the surface of the back cap is that engages the rear end of the holding member. Back cap 412 does not appear to have such a surface. The distal portion of back cap 412 engages spring 415 rather than the rear end of the holding member 505. In claim 7, it is unclear what the claimed surface and projections are, in light of the specification.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the

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differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slama (4,469,110) in view of Schraga (6,156,051). Slama discloses body 2, trigger 5a, front cover 10, holding member 3, main spring 4, first stop surface (the outer surface of shaft 5), second stop surface 7 (col. 3, lines 34-38), wherein at least partial rotation of the front cover 10 causes the skin engaging end to move axially relative to the second stop surface (col. 3, lines 49-58). Slama fails to disclose the main spring 4 being disposed between the front and rear ends of the holding member 3. However, Schraga teaches that the holding member 30 should extend to the back end of the lancet device in order to enable it to engage a back cap 20B (figure 16) apparently in order to obtain the advantage of easily cocking the needle by pulling on back cap 20B (col. 14, lines 52-59). It would have been obvious to elongate the holding member 3 of Slama in the rearward direction to engage a similar back cap so that it too would have this advantage. With this modification, the Slama main spring 4 would be disposed between the front and rear ends of the holding member 3, noting that the Schraga main spring 40 is so disposed relative to

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holding member 30. As to claim 8, Schraga discloses another spring 178 (which is incorporated into the Slama device). As to claim 12, note col. 9, lines 36-40 of Schraga. As to claim 13, Schraga discloses locking member 182 (which is incorporated into the Slama device). As to claim 20, Slama fails to disclose an integrally formed deflecting member configured to be deflected by a trigger. However, Schraga teaches that the means to temporarily retain the lancet cocked should include a deflecting member 36 configured to be deflected by a trigger 45 (col. 30-60), apparently in order to obtain the advantage of insuring that the lancet is not inadvertently fired. It would have been obvious to so construct the Slama the means to temporarily retain the lancet cocked so that it too has this advantage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

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mht

6/16/05

A handwritten signature in black ink, appearing to read 'Michael Thaler', with a stylized, cursive script.

MICHAEL THALER  
PRIMARY EXAMINER  
ART UNIT 3731